

REMARKS

Applicant respectfully requests reconsideration of the present application in view of the foregoing amendments and in view of the reasons that follow.

By the present Amendment, claims 1-16, 26-49 and 57-61 are pending in the application. Claims 17-25, 37, 39-42 and 50-56 had been withdrawn from consideration by the Examiner, following a restriction action.

For purposes of expediting the allowance of the present application, withdrawn claims 17-25 and 50-56 are cancelled herein, without prejudice or disclaimer. Claims 37 and 39-42 are each dependent (directly or indirectly) on claim 26. Accordingly, it is requested that claims 37 and 39-42 remain in the application, for rejoinder, upon allowance of parent claim 26. Re-examination and reconsideration of the application, as amended and in view of the following remarks, are requested.

Claims 1-4, 7-10, 13-16, 26-30, 33-36, 38, 43-46, 49 and 57-61 are rejected under 35 U.S.C. 102 (e) as being anticipated by Shin et al. (USP 6,895,263). This rejection is respectfully traversed, as follows.

While this rejection is respectfully traversed in that the subject matter of the rejected claims is not disclosed or suggested by Shin et al. (USP 6,895,263) and Applicant reserves the right to distinguish the rejected claims there-from, Applicant submits herewith a Declaration Under 37 CFR 1.132 to expedite an allowance of the application. In particular, Applicant notes with appreciation, the Examiner's indication that this rejection may be overcome by showing, under 37 CFR 1.132 that any invention disclosed but not claimed in the reference was derived from the inventor of the present application and is thus not the invention "by another." Accordingly, Applicant submits herewith a Declaration Under 37 CFR 1.132 of the first-named inventor of the present application, John J. Shin.

In his Declaration, Mr. Shin states that the subject matter of the invention of each of claims 1-4, 7-10, 13-16, 26-30, 33-36, 38, 43-46, 49 and 57-61 of the present patent application was conceived of by himself (John J. Shin) alone or with one or both of Nandita N. Patel and

Sami Kanderian, Jr. Each of those inventors is also an inventor in U.S. Patent No. 6,895,263. Mr. Shin further states that none of the other inventors named in U.S. Patent No. 6,895,263 contributed to the conception of the invention of claims 1-4, 7-10, 13-16, 26-30, 33-36, 38, 43-46, 49 and 57-61.

Accordingly, any disclosure in U.S. Patent No. 6,895,263 of the invention of those claims was from an inventor in the present application and, thus, was not the invention by another person or other persons. Therefore, the rejection of claims 1-4, 7-10, 13-16, 26-30, 33-36, 38, 43-46, 49 and 57-61 is respectfully traversed.

Claims 5-6, 11, 31-32 and 47-48 are rejected under 35 U.S.C. 103(a) as being obvious over Shin et al. (USP 6,895,263) in view of Riedel (USP 6,069,011). This rejection is respectfully traversed, as follows.

While this rejection is respectfully traversed in that the subject matter of the rejected claims is not disclosed or suggested by the cited references and Applicant reserves the right to distinguish the rejected claims there-from, Applicant submits herewith a Declaration Under 35 U.S.C. 103(c) to expedite an allowance of the application. In particular, Applicant notes with appreciation, the Examiner's indication that this rejection may be overcome by showing that the reference is disqualified under 35 U.S.C. 103(c) as prior art in a rejection under 35 U.S.C. 103(a).

Accordingly, Applicant submits herewith a Declaration Under 35 U.S.C. 103(c), stating that, at the time that the invention of the present application, the present application and U.S. Patent No. 6,895,263 were owned by, or subject to an obligation of assignment to, the same entity – namely, Medtronic MiniMed, Inc. Therefore, the rejection of claims 5, 6, 11, 31, 32, 47 and 48 is respectfully traversed.

In view of the foregoing, Applicant believes that the present application is now in condition for allowance. Favorable reconsideration of the application as amended is respectfully requested.

The Examiner is invited to contact the undersigned by telephone if it is felt that a telephone interview would advance the prosecution of the present application.

The Commissioner is hereby authorized to charge any additional fees which may be required regarding this application under 37 C.F.R. §§ 1.16-1.17, or credit any overpayment, to Deposit Account No. 19-0741. Should no proper payment be enclosed herewith, as by the credit card payment instructions in EFS-Web being incorrect or absent, resulting in a rejected or incorrect credit card transaction, the Commissioner is authorized to charge the unpaid amount to Deposit Account No. 19-0741. If any extensions of time are needed for timely acceptance of papers submitted herewith, Applicant hereby petitions for such extension under 37 C.F.R. §1.136 and authorizes payment of any such extensions fees to Deposit Account No. 19-0741.

Respectfully submitted,

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